

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on November 13, 2009, and the references cited therewith.

Claims 1, 20, 32 and 33 are amended, no claims are added, claims 37-39 were previously canceled and claims 21-31 were previously withdrawn; as a result, claims 1-36 are now pending in this application.

Examiner Interview Summary

Applicant thanks Examiner Ganesan for the courtesy of a telephone interview conducted on Monday, February 08, 2010. The proposed amendments to the independent claims were discussed in view of the currently cited references. Although no particular agreement was reached, Applicant believes the present claims are in patentable order.

§103 Rejection of the Claims

Claims 1-13, 16-20, and 32-36 were rejected under 35 USC § 103(a) as being unpatentable over Edwin (U.S. Publication No. 2002/0095205) in view of Wolff (U.S. Patent No. 5,104,404) and Ventura (U.S. Publication No. 2004/0044399). Applicant has amended independent claims 1, 20, 32 and 33 to more clearly recite the claimed subject matter. Insofar as the rejection applies to the amended claims, Applicant respectfully traverses the rejection as follows.

Applicant's independent claim 1, as amended, currently recites (emphasis added):

A stent comprising a tubular framework having an outer surface and an inner surface and a plurality of interconnected struts, the struts comprising a plurality of serpentine bands and further comprising a generally linear connector strut attaching a peak of one serpentine band to a trough of an immediately adjacent serpentine band at the respective apices of each of the peak and the trough, wherein the respective apices of the immediately adjacent serpentine bands are axially aligned with each other in opposing directions, and wherein the opposing apices reduce a distance between the

immediately adjacent serpentine bands and attach to the generally linear connector strut, the framework further comprising an outer covering of PTFE and an inner covering of PTFE, the outer covering extending along at least a portion of the outer surface of the expandable framework, the inner covering extending along at least a portion of the inner surface of the expandable framework, at least a portion of the inner and outer coverings being contiguous, the stent further comprising at least one radiopaque marker directly and only attached to the generally linear connector strut and disposed between the inner covering and the outer covering.

Applicant respectfully submits that the Edwin reference appears to teach encapsulated radiopaque markers (abstract). The tubular graft structure 10 of Edwin can include a graft 12 and a radiopaque coating 14 (page 2, paragraph 0021), where the radiopaque coating 14 can be placed on a portion of the outer surface of a luminal graft layer and/or on the inner surface of an abluminal graft layer (page 2 – 3, paragraph 0023). Additionally, the radiopaque markers can be in the form of disks, rectangles or spheres that are encapsulated by enclosing the radiopaque markers within the graft material (abstract; page 2, paragraph 0023). For example, as seen in Figure 5 of Edwin, the disks 80 have a radiopaque metal incorporated thereon and are position to be within a diamond of stent 74 and enclosed between two layers of the graft material (page 3, paragraph 0027).

By stating so, Edwin appears to teach incorporating radiopaque markers by either applying a coating of the radiopaque material on an outer surface of the graft or positioning radiopaque disks between the diamond of the stent. As such, Edwin does not appear to teach a stent structure with axially aligned oppositely point apices connected with a connector strut, where the stent further comprising at least one radiopaque marker directly and only attached to the generally linear connector strut and disposed between the inner covering and the outer covering.

The Office Action mailed November 13, 2009, cites Wolff to teach the use of a stent structure with radiopaque connector struts that connect adjacent oppositely point apices and cites Ventura to teach the use of radiopaque marker placement specifically on a connector strut (Office Action, page 3). However, Applicant respectfully submits that it would not have been obvious to one of ordinary skill at

the time of the invention for Edwin to comprise of the radiopaque connectors of Wolff and the specific placement of radiopaque markers on the connector struts of Ventura, as suggested in the Office Action, as Edwin teaches away from including the proposed modification.

For example, Edwin states that “[i]mportantly, the stent itself cannot be coated with radiopaque metal as the metal can interfere with the stent’s self-expanding or other metallic properties” (page 2, paragraph 0012). Additionally, Edwin appears to teach that when placing radiopaque disks within the diamond of the stent “it is important that the size of the disk 80 be carefully monitored so as not to interfere with the expansion and contraction of the device 70” (page 3, paragraph 0027).

Edwin appears to be teaching that the encapsulated radiopaque markers are strategically placed within the graft material (*i.e.*, between the diamond of the stent) or coated on the graft such that the radiopaque markers do not interfere with the self-expanding feature of the stent and/or other metallic properties of the stent. As such, one skilled in the art would not be motivated to combine Edwin with the teachings of Wolff and Ventura because Edwin specifically teaches away from including the radiopaque marker material directly on the stent. As such, there is no suggestion or motivation to make the proposed modification and the teachings of the documents are not sufficient to render the claim *prima facie* obvious.

Applicant’s independent claim 20, as amended, recites in part (emphasis added):

the generally linear connector strut having at least one marker which is radiopaque or which may be visualized using magnetic resonance imaging, the marker directly attached to the generally linear connector strut and disposed between the inner coverings and the outer coverings.

Applicant’s independent claim 32, as amended, recites in part (emphasis added):

at least one radiopaque marker located within the marker region of said framework, the marker directly attached to the generally linear connector strut; and

a covering of expanded PTFE covering the interior surface and exterior surface of said framework in the marker region.

Applicant's independent claim 33, as amended, recites in part (emphasis added):

the stent further comprising at least one radiopaque marker directly attached to the generally linear connecting members and disposed between the inner covering and the outer covering.

Therefore, Applicant respectfully submits that the Edwin, Wolff and Ventura references do not support a proper *prima facie* case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of independent claims 1, 20, 32 and 33, as well the claims that depend therefrom.

Claims 14 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Edwin (U.S. Publication No. 2002/0095205) in view of Wolff (U.S. Patent No. 5,104,404) and Ventura (U.S. Publication No. 2004/0044399) as applied above, further in view of Nolting, et al. (U.S. Patent No. 6,488,701). Applicant respectfully traverses the rejection as follows.

Claims 14 and 15 depend directly or indirectly from independent 1. For at least the reasons provided above, Applicant respectfully submits that there is no motivation to modify Edwin with the teachings of Wolff and Ventura because Edwin specifically teaches away from such modification.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of claims 14 and 15, which depend from independent claim 1.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0126 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being electronically deposited with the United States Patent and Trademark Office on this 12 day of February, 2010.

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